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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,854	11/12/2003	Thomas L. Stachura	42390P7040C	8648
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NGUYEN, THU HA T				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,854

Applicant(s)

STACHURA ET AL.

Examiner

THU HA T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-33, 35-39 and 41-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-33, 35-39 and 41-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 31-33, 35-39, and 41-55 are presented for examination.
2. Claims 31, 39, and 45 are currently amended.
3. Claims 1-30, 34, 40, and 56-70 have been canceled without prejudice.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 28, 2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 39 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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6. The analysis under 35 U.S.C. 112, first paragraph, requires that the scope of protection sought be supported by the specification disclosure. The pertinent inquiries include determining whether the subject matter defined in the claims is described in the specification.

7. The "invention" for the purpose of the first paragraph analysis is defined by the claims. The description requirement is simply that the claimed subject matter must be described in the specification. The function of the description requirement is to ensure that the applicant had possession of the invention on the filing date of the application. The application need not describe the claim limitations exactly, but must be sufficiently clear for one of ordinary skill in the art to recognize that the applicant's invention encompasses the recited limitations. The description requirement is not met if the application does not expressly or inherently disclose the claimed invention.

Specification does not explicitly describe nor is sufficiently clear for one of ordinary skill in art to recognize the following limitation as recited in claim 39 "generating in a CPU the packet template" and "while the CPU is asleep, storing the packet template...". The examiner cannot find anywhere in the instant specification of the invention that describes or discloses these features. Thus, claim 39 is unclear that one ordinarily skilled in the art cannot recognize the encompassed claim limitations. Appropriate correction is required.

Response to Arguments

8. Applicant's arguments filed on January 28, 2010 have been fully considered but they are not persuasive because of the following reasons:

9. Regarding to applicant's response to 35 U.S.C. 112, first paragraph and provides paragraph 0044 to support this claimed amended. However, the examiner does not find anywhere in this paragraph that support the limitations "generating in a CPU the packet template" and "while the CPU is asleep, storing the packet template...". Thus the rejection is maintained.

10. Applicant argues that all of claims stand rejected as obvious over Spencer in view of Chen, and in some cases, further in view of Cromer. However, neither Spencer, Chen nor Cromer teaches the amended claims. In response to applicant's argument, the examiner asserts that the combination of Spencer and Chen does teach the amended claim invention as rejected below.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 31-33, 35-36, 38-39, 41-42, 44-48, 51, and 53-55 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Spencer** U.S. Patent No. 6,253,243, in view of **Chen et al.** (hereinafter Chen) U.S. Patent No. 5,432, 932.

13. As to claim 31, **Spencer** teaches the invention as claimed, including a method comprising:

in a personal computer having a CPU and a device (figure 1) accessing a packet template in a memory of the device, the packet template having at least two static fields (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3); and

in response to an indication of an event, generating on an integrated circuit of the device, without executing full network layer software stacks or the CPU for each protocol layer, a packet using the integrated circuit, the packet based on the packet template (col. 5, lines 27-50, col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

However, **Spencer** does not explicitly teach the feature of without using the CPU.

Chen teaches the feature of without using an executing CPU (abstract, col. 94, line 47- col. 99, line 44).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Chen** to include the feature of without using an executing CPU into **Spencer** system because it would have provided a performance tools for monitoring hardware and

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software events for data processing system to minimize system overhead in monitoring and controlling processes.

14. As to claim 32, **Spencer** teaches the invention as claimed, additionally comprising transmitting the packet to a communication controller for transmission over a shared medium (figure 4, element 414, col. 3, lines 1-10, col. 6, lines 29-31).

15. As to claim 33, **Spencer** teaches the invention as claimed, additionally comprising generating the packet template in response to receiving data to be used as the packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

16. As to claim 35, **Spencer** teaches the invention as claimed, wherein one of the at least two protocol layers includes an SNMP (Simple Network Management Protocol) layer (figure 5, col. 3, lines 1-10, col. 6, lines 50-65).

17. As to claim 36, **Spencer** teaches the invention as claimed, wherein the generated packet includes a SNMP trap PDU (protocol data unit) (col. 3, lines 1-10, col. 6, lines 50-65).

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18. As to claim 38, **Spencer** teaches the invention as claimed, wherein said generating the packet comprises inserting one or more non-static data into the packet (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

19. As to claim 39, **Spencer** teaches the invention as claimed, including a method comprising:

- receiving data to be used to create a packet template (col. 6, lines 50-65);
- generating in a CPU of a personal computer also having a device the packet template, the packet template including at least one static field (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3);
- storing the packet template in a memory of the device (col. 6, lines 50-65, figure 4, element 422);
- receiving an indication of an event (col. 3, lines 1-8); and
- generating with the device, without executing full network layer software stacks for each protocol layer, a packet based on the packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

However, **Spencer** does not explicitly teach the feature of while the CPU is asleep storing and generating a packet.

Chen teaches the feature of while the CPU is asleep storing and generating a packet (abstract, col. 94, line 47- col. 99, line 44).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Chen** to include the feature of while the CPU is asleep storing and generating a packet

into **Spencer** system because it would have provided a performance tools for monitoring hardware and software events for data processing system to minimize system overhead in monitoring and controlling processes.

20. As to claim 45, **Spencer** teaches the invention as claimed, including an apparatus comprising:

a personal computer having a CPU and an integrated circuit having (figure 1):

a memory to store at least one packet template, the at least one packet template having at least one static field (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3); and

a packet generator to generate on an integrated circuit, without executing network layer software stacks for each protocol layer, a packet based on one of the at least one packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

However, **Spencer** does not explicitly teach the feature of while the CPU is asleep, generating a packet.

Chen teaches the feature of while the CPU is asleep, generating a packet (abstract, col. 94, line 47- col. 99, line 44).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Chen** to include the feature of while the CPU is asleep, generating a packet into **Spencer** system because it would have provided a performance tools for monitoring hardware and

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software events for data processing system to minimize system overhead in monitoring and controlling processes.

21. As to claim 46, **Spencer** teaches the invention as claimed, additionally comprising an event processor to receive an indication of one or more events, and to notify the packet generator of the one or more events (figure 4, elements 141, 420, col. 6, lines 24-65).

22. As to claim 47, **Spencer** teaches the invention as claimed, wherein one of the one or more events includes a software-generated event from a CPU (central processing unit) (figures 2, 4, col. 6, lines 24-34).

23. As to claim 48, **Spencer** teaches the invention as claimed, wherein one of the one or more events include an external event (figures 2, 4, col. 5, lines 28-41, col. 6, lines 24-34).

24. As to claim 51, **Spencer** teaches the invention as claimed, additionally including a bus control module to receive at least one packet template from a CPU (central processing unit) (figure 4).

25. As to claim 54, **Spencer** teaches the invention as claimed, wherein the SNMP trap PDU comprises a UDP (User Datagram Protocol) packet portion (col. 3, lines 1-10, col. 6, lines 50-65, col. 16, lines 55-62).

26. As to claim 55, **Spencer** teaches the packet consists of UDP trap information (col. 16, lines 57-62). However, **Spencer** does not explicitly teach the complete checksum is stored in the UDP packet portion. This feature is deemed to be inherent to Spencer system because UDP, similar to TCP, is a communication message protocol that sends data units from one network element to another. UDP consists of a checksum that has the capability to verify if the data arrive intact.

27. Claims 41-42, 44, and 53 have similar limitations as claims 35-36, 38, 46, and 54; therefore, they are rejected under the same rationale.

28. Claims 37 and 43 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Spencer** U.S. Patent No. **6,253,243**, in view of **Chen et al.** (hereinafter Chen) U.S. Patent No. **5,432, 932**, further in view of **Cromer et al.** (hereinafter Cromer) U.S. Patent No. **6,357,007**.

29. As to claim 37, **Spencer-Chen** does not explicitly teach an ASIC (application specific integrated circuit). However, **Cromer** teaches wherein the integrated circuit comprises an ASIC (application specific integrated circuit) (abstract, figure 2, element 4). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Spencer-Chen and Cromer** to include an ASIC because it

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would provide advance alerting/notifying of interruptions/events for monitoring network devices.

30. Claim 43 has similar limitations as claim 37; therefore, they are rejected under the same rationale.

31. Claims 49-50, and 52 are rejected under 35 U.S.C. §103 (a) as being unpatentable over **Spencer** U.S. Patent No. **6,253,243**, in view of **Chen et al.** (hereinafter **Chen**) U.S. Patent No. **5,432, 932**, further in view of **Matchefts et al.** (hereinafter **Matchefts**) U.S. Patent No. **6,330,600**.

32. As to claim 49, **Spencer-Chen** does not explicitly teach the concept of polling. However, **Matchefts** teaches wherein the external event is polled from a device (col. 2, lines 18-34, col. 6, lines 4-45). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the polling concept into the system as disclosed by **Spencer-Chen** because it will randomly check the status of network elements to provide and improve a extensive monitoring of network events.

33. As to claim 50, **Spencer-Chen** teaches the invention as claimed, wherein: the event processor additionally sends an event code and event data to the packet generator (see **Spencer** col. 2, lines 36-62- Note that **Spencer**

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disclosed the event notifications are managed object based alarms stored in an alarm log. This feature is deemed to be inherent that a managed object based alarm comprise event code and data); and the packet generator generates a packet based on one of the at least one packet templates by: accessing the packet template in the memory (see Spencer col. 6, lines 50-65, col. 7, line 42-col. 9, line 3); storing the event code and the event data in the packet template (see Spencer col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3) and transmitting the packet template to a communication controller for transmission over a shared medium (see Spencer figure 4, col. 3, lines 1-10, col. 6, lines 24-65). However, **Spencer-Chen** does not explicitly teach the checksum calculation and comparison. **Matchefts** teaches the packet template including a partial checksum (col. 6, lines 4-16, col. 7, lines 52-55); calculating a complete checksum based on the partial checksum, and based on the at least one static field (col. 7, lines 48-65, col. 8, lines 55-67, col. 9, lines 1-6); storing the complete checksum in the packet template (col. 7, lines 48-65). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the checksum calculation and comparison in the system of **Spencer-Chen** because it will verify if the complete transmission was received and prevent out-of-order sequencing.

34. As to claim 52, **Spencer-Spencer** does not explicitly teach the invention as claimed; however, **Matchefts** teaches wherein the bus control

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module additionally receives a partial checksum from the CPU (col. 6, lines 4-16, lines 46-64, col. 7, lines 52-55). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Spencer-Chen and Matchefts** to have the same motivation as set forth in claim 50, *supra*.

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776.

The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

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direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/THUHA T. NGUYEN/

Primary Examiner, Art Unit 2453